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November 12, 2019

VIA ECF

Honorable Sanket J. Bulsara
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Bow & Drape, Inc. v. Truly Commerce Inc. et al.*
Civil Action No. 18-cv-05066-NG-SJB
Our File No.: 37656.0001

Dear Judge Bulsara:

We represent Plaintiff Bow & Drape, Inc. (“Bow & Drape”), and are writing respectfully with respect to the status conference scheduled for Friday, November 15, 2019. We understand the Court scheduled the conference because a stipulation of dismissal has not been filed following the settlement between Bow & Drape and Defendant Truly Commerce Inc.

As background, Bow & Drape and Truly Commerce reached a settlement in principal at the mediation on August 26, 2019, which was subject to a more formal settlement agreement and release. (A settlement was not reached between Bow & Drape and Defendant Day to Day Imports.)

During the mediation, there was disagreement regarding what the two Defendants were tasked to do on behalf of Bow & Drape. As such, on August 29, 2019, Bow & Drape served document requests on both Defendants in an effort to obtain documents relating to Defendants’ services to Bow & Drape. Day to Day recently served written responses to the document requests, and claimed that it has no documents to produce.

Truly Commerce has taken the position that it is not obligated to respond to the document requests because of the settlement. Bow & Drape is currently not taking a stance on the merits of that position, but has requested that Truly Commerce’s counsel accept service of a subpoena (which would attach the same document requests) so that Bow & Drape has certainty that the document requests have been received by Truly Commerce for purposes of a motion to compel, if necessary. Provided that Truly Commerce’s counsel accepts service of the subpoena, Bow & Drape is willing to execute the stipulation of dismissal and Truly Commerce can be formally dismissed from the action, while maintaining an obligation to respond to the subpoena as a non-party. Counsel for Bow & Drape and Truly Commerce have met and conferred on this issue and reached an impasse.



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The parties will be prepared to discuss this situation in more detail at the status conference.

Thank you for your Honor's consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Gregory Lahr", with a stylized flourish at the end.

J. Gregory Lahr

cc: All Counsel (via ECF)